IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7990 of 2003

Between:

Mohd Abdul Ali, S/o. Mohd Abdul Hameed
R/o.Bhainsa Village & Mandal, Adilabad District,

..... PETITIONER

AND

1 Girijan Cooperative Corporation Ltd., through its Vice Chairman and Managing Director, Visakhapatnam.
2 Girijan Cooperative Corporation Ltd., through its Divisional Manager, at Utnoor, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other writ or writs, order or direction, declaring the proceedings dt. 17.4.2003 in Rc No. 998/2002/Admin.9, and the proceedings dt. 28.3.2001 in Rc. No.1234/02 IA.2, Proceedings No. 1199/02/IA.2 dt.28.3.03, proceedings No.1200, 1201, 1244, 1245/02/IA-2, dt 15.4.2003 on the file of the first respondent, as illegal, arbitrary and without jurisdiction and consequently direct the first respondent to forthwith pay Rs.3,25,583.83 to the petitioner towards his terminal benefits; Award costs.

Counsel for the Petitioner:MR.K.RAGHUVEER REDDY

Counsel for the Respondents. Me. N. Sreedhar Reddy

The Court made the following :

The Hon’ble Sri Justice

K.C. Bhanu

W.P. No. 7990 of 2003

O R D E R:

This writ petition is filed seeking to declare the proceedings dated 17.4.2003 in Rc.No.998/2002/Admn.9, dated 28.3.2001 in Rc.No.1243/02.IA.2, Proceedings No.1199/02/IA.2 dated 28.3.2003, Proceedings No.1200, 1201, 1244, 1245/02/IA.2 dated 15.4.2003 on the file of the 1st respondent as illegal and arbitrary with a consequential direction to pay Rs.3,25,583.83 to the petitioner towards terminal benefits.

The case of the petitioner is that pursuant to the decision of the 1st respondent to extend Voluntary Retirement Scheme to its employees he opted for the same and retired from service on the afternoon of 30.6.2001. But as no benefits arising out of the said scheme were given to the petitioner, he filed writ petition before this court and subsequently two cheques one for Rs.1,44,801/- and another for Rs.1,25,173.77 were released while the terminal benefits due to him are Rs.4,50,757/-. Out of this amount, an amount of Rs.3,25,583.83 was deducted stating to be recoveries from terminal benefits. The petitioner challenges the same as being illegal and violative of principles of natural justice.

Learned counsel for the petitioner contended that the respondent-Corporation should not recover the terminal benefits after retirement and the rules do not provide for recovery of alleged loss

caused to the respondent-Corporation and when the voluntary retirement of the petitioner is accepted, the respondents are not supposed to recover the amounts. Hence he prays to allow the writ petition.

On the other hand, learned standing counsel for the respondent-Corporation vehemently contended that the petitioner being the Stores Assistant committed several irregularities and caused loss to the Corporation and even the audit has pointed out that the petitioner was responsible for causing loss of stocks and hence the respondent-Corporation is entitled to recover the same from the benefits accrued to the petitioner and that the V.R.S. of the petitioner has been accepted subject to dues payable to the Corporation such as advance, loans and other monies and therefore there are no merits in the writ petition.

Now the dispute is only with regard to payment of terminal benefits which are sought to be recovered from the impugned proceedings dated 17.4.2003. Admittedly the petitioner worked as a Senior Stores Assistant in Soap Base Unit, G.C.C. Limited, Nirmal from 1990 till his retirement under Voluntary Retirement Scheme on 30.6.2001. It seems the petitioner has not sent the proposals for regularization of the deficits. It is the case of the respondents that after the proposals are sent by the petitioner only the Internal Audit Department of the Corporation would be able to regularize such deficits duly following the specific norms fixed by the Registrar of Cooperative Societies.

The point for determination is whether the respondent-Corporation is entitled to recover the amounts payable to the

petitioner after retirement for the alleged loss caused to the Corporation?

Admittedly till the retirement no disciplinary action has been taken against the petitioner. When the petitioner had opted for Voluntary Retirement Scheme in the year 2001, the same was accepted subject to all the outstanding amounts and dues payable to the Corporation such as advance, loans and other monies payable under the Court decrees or orders etc. The amount now sought to be recovered does not come within the meaning of advance, loans and other monies payable under the Court decrees. The amount sought to be recovered from the petitioner out of his terminal benefits is the alleged loss caused to the respondent-Corporation. There cannot be any dispute that for any loss caused to the respondent-Corporation, the Corporation is entitled to recover the same after fixing the liability and after following the procedure. As rightly pointed by the learned counsel for the petitioner, the relationship of employer and employee comes to an end once a person retires from service. If the rules provide for continuation or contemplation of departmental proceedings, then it would be a different matter. Admittedly there are no rules for continuation or contemplation of departmental proceedings against a retired employee or to recover certain amounts towards the loss caused to the respondent-Corporation. In the absence of any specific rules, the recovery cannot be affected from the terminal benefits of the petitioner.

A similar issue had arisen in W.P. 17720 of 2003 wherein a learned single Judge of this court vide order dated 17.7.2004 held *“when the respondents cannot take any action either*

to initiate disciplinary proceedings or for recovery of the so-called deficit amounts after his retirement, it is not open to the respondents to pass such an order depriving the petitioner from payment of his retirement benefits".

Having regard to the facts and circumstances, the writ petition is allowed and impugned proceedings are set aside with a consequential direction to the respondents to pay the terminal benefits to the petitioner within three months from the date of receipt of a copy of this order. However, it is made clear that all the remedies available to the respondent-Corporation in law are left open.

K.C. Bhanu, J.

Date: 14—07—2005.

MVB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this

Thursday the fourteenth of July Two thousand and five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Vice Chairman and Managing Director, Girijan Cooperative Corporation Ltd., Visakhapatnam.
2 The Divisional Manager, Girijan Cooperative Corporation Ltd., at Utnoor, Adilabad District.

3. 2 CD copies.